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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for SunFirst
Bank,

Plaintiff,

v.

STEVE M. HEATON, an individual,
Defendant.

**ATTORNEY'S PLANNING
MEETING REPORT**

Case No. 2:13-cv-00219-EJF

Magistrate Judge Evelyn J. Furse

I. PRELIMINARY MATTERS:

a. The nature of the claims and affirmative defenses is:

i. **Description of Action:**

Plaintiff, the FDIC, appearing in this matter in its receivership capacity as Receiver for SunFirst Bank ("SunFirst") asserts that Defendant has failed to repay, or otherwise perform, under a certain Business Loan Agreement and Promissory Note executed by Defendant and Defendant asserts that it is not obligated to repay SunFirst or the FDIC in its capacity as Receiver for SunFirst, for the reasons set forth, and asserted as affirmative defenses, in its Answer.

- b. This case is _____not referred to a magistrate judge
_____referred to magistrate judge:
_____under 636(b)(1)(A)
_____under 636(b)(1)(B)
___X___ assigned to a magistrate judge under General Order 07-001
and
_____all parties consent to the assignment for all
proceedings or
___X___ one or more parties request reassignment to a district
judge
- c. Pursuant to Fed. R.Civ.P. 26(f), a meeting was held telephonically on *May 8, 2013*.
The following were in attendance:
Heath H. Snow, Bingham Snow & Caldwell, LLP counsel for Plaintiff
Federal Deposit Insurance Corporation as Receiver for SunFirst Bank;
Erik A. Olson, Olson Law, P.C.; counsel for Defendant Steve M. Heaton.
- d. The parties _____ request / ___X___ do not request an initial pretrial scheduling conference with the court prior to entry of the scheduling order.
- e. The parties _____ have exchanged or ___X___ will exchange by 06/12/13 the initial disclosures required by Rule 26(a)(1).
- f. Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed.R.Civ.P. 5(a) by either (i) notice of electronic filing, or (ii) e-mail transmission. Such electronic service will constitute service

and notice of entry as required by those rules. Any right to service by USPS mail is waived.

II. DISCOVERY PLAN: The parties jointly propose to the court the following discovery plan:

- a. Discovery is necessary on the following subjects:
 1. Plaintiff: All claims and causes of action set forth in the Complaint.
 2. Defendant: All claims and causes of action set forth in the Complaint and Defendant's affirmative defenses.
- b. Discovery Phases: Discovery will not be conducted in phases.
- c. Discovery methods to be used and the limitations to be imposed: In accordance with the Federal Rules of Civil Procedure.

III. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:

- a. The cutoff dates for filing a motion to amend pleadings are:
Plaintiff(s): 08/12/13 Defendant(s): 09/09/13
- b. The cutoff dates for filing a motion to join additional parties are:
Plaintiff(s): 08/12/13 Defendants(s): 09/09/13

IV. EXPERT REPORTS:

Reports from experts under Rule 26(a)(2) will be submitted on:
Plaintiff(s): 03/03/14
Defendant(s): 05/05/14

V. OTHER DEADLINES:

- a. Discovery cutoff: Fact: 02/03/14 Expert: 07/07/14
- b. Deadline for filing dispositive or potentially dispositive motions and Daubert motions is: 08/04/14

VI. ADR/SETTLEMENT:

- a. The potential for resolution before trial is: ____ good X fair ____ poor
- b. This case should be referred to the court's alternative dispute resolution program
for arbitration: No mediation: No
- c. The case should be re-evaluated for settlement/ADR resolution on:
08/04/14

VII. TRIAL AND PREPARATION FOR TRIAL:

- a. The parties should have 14 days after service of final lists of witnesses and
exhibits to list objections under Rule 26(a)(3).
- b. This case should be ready for trial by: *10/01/14*
- c. *Specify type of trial:* Jury Bench X
- d. The estimated length of the trial is: 2-3 days.

/s/ Heath H. Snow
Heath H. Snow, Counsel for FDIC

Date: 05/09/2013

/s/ Erik A. Olson*
Erik A. Olson, Counsel for Steve M. Heaton

Date: 05/09/2013

**signed electronically by filing attorney with permission*